

# Deepwater Horizon Settlement Update

Agreement in Principle with BP Exploration  
and Production on State and Federal Claims



**Louisiana State Senate**  
Committees on Finance and Natural Resources  
July 27, 2015

### Proceedings:

- Funding information and general details of the Agreement in Principle between BP Exploration and Production and state and federal parties announced on July 2, 2015.
- Discussion of state coastal projects and funding related to the Deepwater Horizon event.
- Discussion of the July agreement, previous settlements, and other funding related to the Deepwater Horizon event.



## Deepwater Horizon Settlement Update

- On July 2, 2015, state officials announced an Agreement in Principle with BP Exploration and Production on all state and federal claims resulting from the April 2010 Deepwater Horizon oil spill.
- This agreement will total approximately \$18.7 billion.
  - It affects the U.S. federal government; Gulf Coast states (Texas, Louisiana, Mississippi, Alabama, and Florida); and more than 400 local governments.
- For its share, Louisiana anticipates receiving more than \$6.8 billion for claims related to ...
  1. Natural Resource Damage Assessment (NRDA) under the Oil Pollution Act of 1990;
  2. The state's share of Clean Water Act civil penalties under the RESTORE Act;
  3. The state's economic damages claims.
- Up to \$1 billion is anticipated to be paid for claims made by more than 400 local governments.
- Settlement funding will be paid out over the next 18 years in installments.
  - At a meeting of the Coastal Protection and Restoration Authority on July 15, staff told the CPRA board that monies are anticipated to begin flowing after February 2016, once the draft consent decree and damage assessment and restoration plan are finalized.



- Louisiana's \$6.8 billion share will include three funding streams:
  1. A minimum of \$5 billion for natural resource damages.
    - This funding is in addition to a \$1 billion down payment in 2011 to all the Gulf Coast states that was provided for early restoration (of which Louisiana's share was roughly \$369 million).
  2. A minimum of \$787 million for Clean Water Act civil penalties through the RESTORE Act.
    - The RESTORE Council has not yet determined Louisiana's actual funding level.
  3. \$1 billion for state economic damages.



## 1. \$5 Billion Natural Resource Damage Assessment (NRDA) funding:

- In 2011, BP provided a \$1 billion down payment to Gulf Coast states for damages to natural resources from the oil spill.
  - Louisiana has received roughly \$369 million as its share from the \$1 billion down payment for the following projects (according to the CPRA):

NRDA Early Restoration	Amount
Lake Hermitage NRDA Increment	\$13,200,000
Shell Island West	\$101,317,860
Caillou Lake Headlands/Whiskey Island	\$110,106,886
Breton Island	\$71,937,300
Chenier Ronquille	\$35,000,954
Oyster Hatchery	\$3,000,000
Oyster Cultch	\$11,874,300
Fish Hatchery	\$22,000,000
<b>TOTAL</b>	<b>\$368,437,300</b>

- Additional NRDA funding awarded to the state will begin flowing once the damage assessment and restoration plan is finalized, which is anticipated by 2016.
  - This plan will outline how other current and future restoration projects will be undertaken.



### 2. \$787 million Clean Water Act civil penalties (RESTORE Act):

- This funding will be subject to the requirements of the RESTORE Act, enacted by Congress in 2012.
  - \$787 million is the minimum amount Louisiana could be awarded.
  - Actual funding may be more depending on the determinations of the RESTORE Council.
- The RESTORE Act returns 80 percent of Clean Water Act fines back to the Gulf Coast states (20 percent stays with the federal government), and it applies five funding structures to the money:
  1. 30 percent allocated by the Gulf Coast Ecosystem Restoration Council;
  2. 30 percent divided among the states based on environmental impact;
  3. 35 percent divided equally among the states;
  4. 2.5 percent to fisheries monitoring; and
  5. 2.5 percent to set up state research centers.
- Act 805 of the 2012 Regular Session of the Legislature provided that any monies received for violations of the Clean Water Act shall flow into the state's Coastal Protection and Restoration Fund.



## Act 805 of the 2012 Regular Session

### Coastal Protection and Restoration Fund

[R.S. 49:214.5.4(I)]

“I.(1) Any monies received by the state for violations pursuant to section 311 of the Federal Water Pollution Control Act, 33 U.S.C. 1321; R.S. 30:2025(E)(1) and (2); and R.S. 30:2001 et seq., including R.S. 30:2071 et seq., associated with the Deepwater Horizon oil spill that began on April 20, 2010, shall be deposited and credited by the treasurer to the Coastal Protection and Restoration Fund for integrated coastal protection efforts, including coastal restoration, hurricane protection, and improving the resiliency of the Louisiana Coastal Area affected by the Deepwater Horizon oil spill.

(2) Nothing in this Subsection shall be construed as affecting funds associated with the Natural Resources Damage Assessment process.”



### 3. \$1 billion for State Economic Damages:

- This funding stream has been designated by the legislature, in accordance with R.S. 39:91, to flow into the Deepwater Horizon Economic Damages Collection Fund.
  - Out of this fund, 45 percent shall flow into the Budget Stabilization Fund (until the current cap is reached — roughly \$811 million);
  - 45 percent to the Medicaid Trust Fund for the Elderly (until \$700 million is deposited into the fund);
  - 10 percent to the Health Trust Fund (up to \$30 million); and
  - Interest earnings on investment of monies in the fund to higher education.
    - This provision was enacted by Act 396 of the 2015 Regular Session (HB 386 by Leger, et al).



### What Funding is Not in the July 2 Agreement in Principle

- Any funding streams already granted or finally settled in prior years.
- *“Remaining costs of the 2012 class action settlements with the Plaintiffs’ Steering Committee for economic and property damage and medical claims.”*
- *“Claims by individuals and businesses that opted out of the 2012 settlements and/or whose claims were excluded from them.”*
- *“Private securities litigation pending in MDL 2185.”*
  - This pending litigation claims BP misled investors on the company’s safety measures and commitment to safe operations.



### Next:

- Funding information and general details of the Agreement in Principle between BP Exploration and Production and state and federal parties announced on July 2, 2015.
- CPRA — Discussion of state coastal projects and funding related to the Deepwater Horizon event.
- Attorney General — Further discussion of the July agreement, previous settlements, and other funding related to the Deepwater Horizon event.